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ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

CHARLES E. DENT,)
)
Appellant-Defendant,)
)
vs.) No. 71A03-0802-CR-31
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable Jerome Frese, Judge
Cause No. 71D03-0612-FB-151

May 7, 2008

BAKER, Chief Judge

Appellant-defendant Charles E. Dent appeals his convictions for Burglary,¹ a class B felony, Robbery,² a class C felony, Possession of Cocaine,³ a class D felony, and the finding that he is a Habitual Offender,⁴ claiming that his confession to the offenses was improperly admitted into evidence. Specifically, Dent argues that the admission of his confession amounted to fundamental error because the State failed to establish the corpus delicti of the crimes independent of his statements. Finding no error, we affirm the judgment of the trial court.

FACTS

On December 11, 2006, Dent and another individual who occasionally did yard work for Loretta Bukowski at her South Bend residence approached Bukowski and asked if they could rake some leaves for her. Because it was close to Christmas, Bukowski permitted the men to do the work and “earn a little extra money.” Tr. p. 64. Bukowski paid them ten dollars and gave them three bottles of beer for their efforts.

Later that day, Dent returned to Bukowski’s house and asked if he could use her telephone. Although Bukowski said “no,” Dent walked inside, ripped Bukowski’s life-line necklace from her neck, and knocked her down. Id. at 65. Dent then took Bukowski’s money from her wallet, stole her car keys, and fled in her Green Ford Taurus automobile.

¹ Ind. Code § 35-43-2-1.

² Ind. Code § 35-42-5-1.

³ I.C. § 35-43-4-2.5(b).

⁴ Ind. Code § 35-50-2-8.

Bukowski called the police and described her assailant as a “middle-aged black [male].” Id. at 67. When South Bend Police Officer Paul Strabavy arrived at Bukowski’s residence, he noticed her open purse on the kitchen table with her wallet next to it. Bukowski reported that her money was missing, and Officer Strabavy noticed that several objects were out of place, including a pair of broken eye glasses and Bukowski’s life-line necklace on the floor. Bukowski also told Officer Strabavy that her keys and green Ford Taurus automobile were missing. Bukowski was transported to the hospital, where it was determined that she had suffered some “bleeding on the brain.” Id. at 68, 69. As a result, Bukowski remained in the hospital for nearly five weeks.

The next day, several police officers saw a Ford Taurus, and a license plate check revealed that it had been stolen. The police stopped the vehicle, which Dent was driving. When Dent was questioned about the vehicle, he admitted that he and an acquaintance had raked some leaves for Bukowski on December 11, 2006. Dent then told the police that he had returned to Bukowski’s residence, forced his way inside, and knocked her down. Dent also admitted taking Bukowski’s money, keys, and vehicle.

Thereafter, Dent was charged with the above offenses. At a jury trial that commenced on August 27, 2007, Dent objected to the admission of his confession on the grounds that the police officers failed to properly advise him of his rights as required by Miranda v. Arizona, 384 U.S. 436 (1966). The trial court overruled Dent’s objection and allowed the statements that Dent had made to the police officers into evidence. Dent was found guilty as charged, and on September 27, 2007, the trial court sentenced him on all offenses. Dent now appeals.

DISCUSSION AND DECISION

In addressing Dent's contention that his statements were improperly admitted into evidence because the State did not establish the corpus delicti of the offenses by independent evidence, we initially observe that Dent challenged the admissibility of the statements at trial on the ground that he had given the statements without being informed of his Miranda rights. However, he now asserts for the first time on appeal that his statements were erroneously admitted because the State failed to establish the corpus delicti of the offenses through independent evidence. In essence, Dent posits that "the only evidence [of the offenses] was presented to the jury through the testimony of [a] detective when he related the specifics of Dent's out-of-court confession." Appellant's Br. p. 10. Notwithstanding this argument, Dent has waived the issue because when a defendant objects to the admission of evidence on one ground at trial and raises a different ground on appeal, the claim is waived. Saunders v. State, 848 N.E.2d 1117, 1122 (Ind. Ct. App. 2006), trans. denied.

Although Dent acknowledges this rule, he maintains that the admission of his statements into evidence amounted to fundamental error. To succeed on a claim of fundamental error, the defendant must establish that the error was so prejudicial that he or she could not have had a fair trial and would be denied fundamental due process. Elliott v. State, 450 N.E.2d 1058, 1061 (Ind. Ct. App. 1983).

We note that a crime may not be proven solely on the basis of a confession. Sweeney v. State, 704 N.E.2d 86, 111 (Ind. 1998). This requirement avoids the risk of convicting someone for a crime to which he confessed, but did not actually commit. Id.

Although the State need not prove every element of the corpus delicti beyond a reasonable doubt, the independent evidence must support an inference that the crime was committed. Id. Also, the State is not required to prove the corpus delicti before the confession is admitted, provided the totality of independent evidence presented at trial establishes the offense. Willoughby v. State, 552 N.E.2d 462, 467 (Ind. 1990).

In this case, Bukowski reported to the police that the man who had previously raked leaves for her returned to her residence later that same day, entered her residence without her consent, knocked her down, and tore away her life-line necklace. Bukowski further informed them that money was missing from her wallet and that the man had taken her Ford Taurus automobile. Tr. p. 36, 37, 44-46, 52, 65, 67, 73.

When Officer Strabavy arrived at Bukowski's residence, she again reported that her keys and vehicle had been stolen. Moreover, Bukowski described her assailant as a middle-aged black male. Dent matched that description, and he was driving Bukowski's Taurus when he was stopped. Id. at 36-40, 44, 45, 46, 65-67, 70. One of the detectives was investigating the stolen vehicle, and he testified at trial that he learned from other police officers that the "vehicle that was taken during a robbery" had been recovered. Id. at 102-03.

When considering this evidence—and excluding Dent's confession—the State established that a burglary and robbery occurred, that Bukowski was injured, that her money and vehicle were taken during the episode, and that Dent was driving the vehicle. Contrary to Dent's claim, his possession of the vehicle and commission of the crimes

were linked to evidence independent of his confession. As a result, we conclude that the State satisfied the corpus delicti requirement, and Dent's claim of fundamental error fails.

The judgment of the trial court is affirmed.

RILEY, J., and ROBB, J., concur.